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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,670	09/09/2003	Nancy Tulgren	3135.02US01	2183
24113	7590	05/11/2004	EXAMINER	
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			VALENTI, ANDREA M	
		ART UNIT	PAPER NUMBER	
			3643	
DATE MAILED: 05/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/658,670	TULGREN ET AL.	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 9 September 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities:

Second line of Claim 9, 'support to structure to be' should be --support structure to be--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-11, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,577,465 to Cook.

Regarding Claim 1, Cook teaches modular pet furniture comprising: a frame structure comprising a plurality of vertical support members (#12), a plurality of horizontal (Fig. 1 #12) cross members, and a plurality of joint members (Fig. 3-5) for interconnecting the vertical support members and the horizontal support members to form an array; and a pet support structure (#44 and 52) comprising a pet support surface and an attachment mechanism operably attached thereto, wherein the attachment mechanism is removably attached to at least one of the vertical support members or the horizontal support members for maintaining the pet support surface in a position with respect to the frame structure.

Regarding Claim 2, Cook teaches the attachment mechanism comprises: a support frame having an outer perimeter, wherein the pet support surface is operably attached to the support frame; and a plurality of support legs (Fig. 1 #12 parallel to #52) extending from the support frame.

Regarding Claim 3, Cook teaches at least one of the horizontal support members has an aperture formed therein and wherein the aperture receives one of the support legs (Fig. 2 #18).

Regarding Claim 4, Cook teaches the pet support surface is removably attached to the attachment means (Fig. 2).

Regarding Claim 5, Cook teaches a pet enclosure (#52) mounted with respect to the pet support surface to at least partially enclose the pet support surface.

Regarding Claim 6, Cook teaches the pet support surface is fabricated from fabricate or plastic (#52).

Regarding Claim 8, Cook teaches the vertical support members, horizontal cross members, and the joint members are fabricated from plastic, wood, metal, or combinations thereof (Col. 2 line 41 and Fig. 2 #12).

Regarding Claim 9, Cook teaches the attachment mechanism allows the pet support structure to be selectively positioned with respect to the frame structure (Fig. 1-5).

Regarding Claim 10, Cook teaches a pet furniture frame structure comprising; a plurality of vertical support members (Fig. 1 #12); a plurality of horizontal support members (Fig. 1 #12); a plurality of joint members (Fig. 3-5) interconnecting the vertical

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support members and the horizontal support members to form an array of support regions; and a plurality of pet support surfaces (#44 and 52) removably attached in the support regions.

Regarding Claim 11, Cook teaches a bed structure is removably mounted in the support region (Fig. 2 #52).

Regarding Claim 13, Cook teaches a method of forming modular pet furniture comprising: interconnecting a plurality of horizontal support members and a plurality of vertical support members (Fig.1 #12) using a plurality of joint members (Fig. 3-5), thereby forming a frame; attaching a bed (#44 and 52) structure to at least one horizontal support member; and fastening a pet support to the bed structure.

Regarding Claim 15, Cook teaches attaching a platform to the top of the modular pet bed frame (#16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,577,465 to Cook.

Regarding Claim 7, Cook teaches a press fit, but is silent wherein the vertical support members and the horizontal cross members are secured to the joint members with solvent cement, twist lock connectors, or set-screw fittings. However, it would have

been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the an engineering design choice involving the selection of a old and notoriously well-known alternate equivalent fastening means performing the same intended function selected merely to met certain ergonomic needs of the end user.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,577,465 to Cook in view of U.S. Patent No. 5,709,164 to Batterton.

Regarding Claims 12 and 14, Cook is silent on a scratch pad is removably mounted in the support region or attaching a fabric to at least one horizontal cross member to form a scratch pad. However, Batterton teaches a modular pet furniture with an attachment of a fabric to function as a scratch pad (Batterton Col. 1 line 45). It would have been obvious to one of ordinary skill in the art to modify the teachings of Cook with the teachings of Batterton at the time of the invention to encourage the cat to scratch the play surface in order to discourage scratching on human furniture as taught by Batterton (Batterton abstract).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. D443,733; European Patent EP 0567437 A2; U.S. Patent Pub US 2003/0037372; U.S. Patent Pub. US 2001/0003969; U.S. Patent Des. 465,620; U.S.

Patent No. 5,960,739; U.S. Patent No. 6,431,119; U.S. Patent No. 5,806,464; U.S. Patent No. 1,820,284; U.S. Patent Des. 374,512; U.S. Patent No. 5,860,389; U.S. Patent Des. 179,836; U.S. Patent Des. 127,808; U.S. Patent No. 6,039,501; U.S. Patent No. 5,743,412.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrea M. Valenti

Andrea M. Valenti
Examiner
Art Unit 3643

Peter M. Poon

Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600

28 April 2004